

LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

IDAPA 01 - IDAHO BOARD OF ACCOUNTANCY PO Box 83720, Boise, ID 83720-0002

01-0101-0402, *Idaho Accountancy Rules*. Updates incorporation by reference documents, references to the CPCFA of the AICPA and definitions; Board administrative costs will be paid by firms that are subject to peer review.

IDAPA 02 - DEPARTMENT OF AGRICULTURE PO Box 790, Boise, ID 83701-0790

02-0104-0401, *Rules Governing the Idaho Preferred Promotion Program*. Clarifies requirements for wine, honey, honey-related products, nursery products and beef products to participate in the voluntary Idaho Preferred™ promotion program.

02-0303-0401, *Rules Governing Pesticide and Chemigation Use and Application*. Changes waiting period for applicants to retake failed exams to one week.

02-0406-0401, *Rules Governing Requirements for Licensed Dairy Plants*. Updates the CFR incorporation by reference.

02-0407-0401, *Rules Governing Grade A Condensed/Dry Milk and Whey Products*. Repeal of chapter.

02-0408-0401, *Rules Governing Grade A Milk and Milk Products*. Adopts the “2003 Grade 'A' Pasteurized Milk Ordinance” by reference.

02-0409-0401, *Rules Governing Methods of Making Sanitation Ratings of Milk Supplies*. Adopts by reference the 2003 Revision of “Methods of Making Sanitation Ratings of Milk Shippers.”

02-0410-0401, *Rules Governing the Cooperative State/Public Health Services and FDA Program for Certification of Interstate Milk Shippers*. Incorporates by reference the 2003 Revision of the “Procedures Governing the Cooperative State Public Health Services, FDA Program for Certification of Interstate Milk Shippers”.

02-0412-0401, *Rules of the Department of Agriculture Governing Standards for the Fabrication of Single-Service Containers and Closures for Milk and Milk Products*. Repeal of chapter.

****02-0419-0401, *Rules Governing Domestic Cervidae*.** Requires visible identification of domestic cervidae, wild ungulate herd plans, and makes technical corrections.

****02-0425-0401, *Rules Governing the Private Feeding of Big Game Animals*.** Designates an eastern Idaho area where private feeding of big game animals is prohibited and how the interaction of livestock and big game animals on feedlines will be regulated.

02.06.02 - Rules Pertaining to the Idaho Commercial Feed Law.

02-0602-0401 - Adds required section and definitions, and incorporates by reference the “2004 Official Publication” of AAFCO and the Merck Index.

02-0602-0402 - Incorporates by reference the “2005 Official Publication” of AAFCO.

02-0612-0402, Rules Pertaining to the Idaho Fertilizer Law. Incorporates by reference the “2005 Official Publication” of the AAPFCO.

02.06.41 - Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001.

02-0641-0401, Incorporates by reference the “2004 Official Publication” of the AAPFCO and the Merck Index.

02-0641-0402, Incorporates by reference the “2005 Official Publication” of the AAPFCO.

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS**PO Box 83720, Boise, ID 83720-0285**

05-0101-0401, Rules of the Department of Juvenile Corrections and Standards for Private Contract Providers. Repeal of chapter.

05-0101-0402, Rules for Contract Providers. Chapter rewrite outlines standards for good care and treatment of juveniles placed with contract providers and for risk management.

05-0103-0401, Rules of the Custody Review Board. Requires that juveniles be seen by the Board prior to age 19 not just referred and, if seen but not retained, may be kept in custody for no more than 45 days after turning 19 for transition plans to be finalized.

05-0104-0401, Uniform Standards for Juvenile Probation Services. New chapter implements and establishes uniform standards for county juvenile probation services.

IDAPA 07 - DIVISION OF BUILDING SAFETY**1090 E. Watertower St., Meridian, ID 83642**

****07-0103-0403, Rules of Electrical Licensing and Registration - General.** Negotiated rulemaking.

07-0106-0403, Rules Governing the Use of the National Electrical Code. Updated incorporation by reference document to include new products used for safer installation and fusing on light poles.

07-0203-0401, Rules Governing Permit Fee Schedule. Sets inspection fees for the installation of multipurpose residential fire sprinkler and domestic water supply systems in a one- or two-family residence.

07.02.05 - Rules Governing Plumbing Safety Licensing.

07-0205-0401, Establishes a staggered schedule of apprentice and specialty apprentice registration and renewal per Idaho Code.

07-0205-0402, Revises the expiration date of the plumbing contractor and journeyman certificates of competency to a staggered schedule per Idaho Code.

07-0205-0403, Clarifies the four-year apprenticeship training requirements and number of hours required in each school year.

07-0207-0401, Rules Governing Civil Penalties. New chapter establishes civil penalties for plumbing code violations and a process to appeal imposed penalties.

07-0309-0401, Rules Governing Manufactured Homes - Consumer Complaints - Dispute Resolution. Establishes a dispute resolution program for manufacturers, retailers and installers of manufactured homes.

07-0311-0401, Rules Governing Manufactured/Mobile Home Licensing. Increases industry fees for issuance and renewals of licenses for dealers, manufacturers, service companies, installers, salesmen, and responsible managing employees.

07-0313-0401, Rules Governing Mobile Home Rehabilitation. Establishes a \$50 processing fee that can be charged to applicants requesting a mobile home rehabilitation checklist and compliance certification. Fee will self-fund program.

07.07.01 - Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems.

07-0701-0402, Redefines “specialty contractor”; specifies issuance date for certificates of competency; lists additional qualifications for HVAC contractors; and designates a supervising journeyman.

07-0701-0403, Deletes permit expiration language that is already in Idaho Code.

IDAPA 08 - BOARD OF EDUCATION/ DEPARTMENT OF EDUCATION

650 W. State St., Room 307, Boise, ID 83720 (Board)

PO Box 83720, Boise, ID 83720-0027 (Department)

08.02.02 - Rules Governing Uniformity.

****08-0202-0403,** Updates the “Standards for Idaho School Buses and Operations” manual that is incorporated by reference.

****08-0202-0405,** Updates the “Idaho Standards for the Initial Certification of Professional School Personnel” manual that is incorporated by reference.

****08-0202-0406,** Updates the “Standards for Commercial Driving Schools” manual that is incorporated by reference.

08-0202-0407, Updates the “Idaho Standards for Public School Driver Education and Training” manual that is incorporated by reference.

****08-0202-0408,** Outlines state accreditation requirements all school districts must meet including developing and implementing district-wide strategic plans and school improvement plans.

08-0202-0409, Clarifies payment responsibilities for conducting both in-state and out-of-state teacher preparation program reviews.

08-0203-0404, Rules Governing Thoroughness. Clarifies award criteria to be consistent with federal requirements.

08.02.04 - Rules Governing Charter Schools.

****08-0204-0401,** Repeal of chapter.

****08-0204-0402,** Rewrite of chapter updates rules to conform to changes in Idaho law.

08-0301-0401, Rules of the Public Charter School Commission. New chapter outlines governance and oversight authority of the commission overseeing new charter schools.

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

PO Box 83720 Boise, ID 83720-0093

09.01.30 - Rules of the Benefits Bureau.

09-0130-0401, Adds definitions relating to electronic signatures for electronic filing and reporting on claims.

09-0130-0402, Requires all holiday pay to be reported in the week the holiday occurs to simplify reporting.

09.01.35 - Rules of the Employer Accounts Bureau.

09-0135-0401, Clarifies what an employer must do to qualify for a good cause waiver from penalties imposed by Employment Security Law.

09-0135-0402, Eliminates the option of reporting the workers of the client employer under the PEO's experience rate without transferring the prior benefit claims experience of the client employer.

09-0204-0401, Idaho Gem Grant Program. Eliminates requirement that rural communities be certified as “Gem Communities” to be eligible for a Gem Community Implementation Grant.

IDAPA 11 - IDAHO STATE POLICE

PO Box 700, Meridian, ID 83680-0700

11-1101-0401, Rules of the Idaho Peace Officer Standards and Training Council. Addresses military discharges; requires more timely notices of employment and entrance into academies; adds continuing training requirements;

eliminates some course attendance requirements for officers challenging the academy; and updates the patrol academy curriculum to accurately reflect what is being taught.

**IDAPA 13 - DEPARTMENT OF FISH AND GAME
PO Box 25, Boise, ID 83707**

13-0102-0401, Rules Governing Public Safety. Clarifies that the Hunter Education Program requirements may be completed through classroom study, home study, or an on-line computer course, and that the department will manage the program.

13-0104-0401, Rules Governing Licensing. Allows for nonresident license refund request to be filed within 1 year of a licensee's death; extends military personnel refund or raincheck rule for the 2004 season; sets nonresident deer and elk tag quotas.

13-0106-0401, Rules Governing Classification and Protection of Wildlife. Updates classification lists.

13-0107-0401, Rules Governing the Taking of Upland Game Animals. Sets biennial season limits; restricts motorized vehicle use for hunting in identified units; closes an area to hunting at Mann's Lake in Nez Perce County.

13-0108-0401, Rules Governing the Taking of Big Game Animals in the State of Idaho. Updates big game season limits; prohibits hunting within enclosures; clarifies motorized vehicle hunting restriction and the use of the nonresident junior mentored hunting license and tags; requires an adult with a tag for the same species and area to accompany nonresident junior mentored hunters; deletes mandatory check requirement of Panhandle elk; lists areas closed to hunting; defines four-point deer; simplifies the evidence of sex requirements.

13-0109-0401, Rules Governing the Taking of Game Birds in the State of Idaho. Sets biennial season limits; restricts motorized vehicle use for hunting in identified units; closes an area to hunting at Mann's Lake in Nez Perce County; sets a 10 a.m. start of shooting hours on certain Wildlife Management Areas.

13-0111-0401, Rules Governing Fish. Sets biennial season limits for fishing; clarifies definitions of float tube and snagging; and clarifies steelhead and salmon rules.

13-0112-0401, Rules Governing Commercial Fishing. Restricts use of nets to take lake trout in Lake Pend Oreille.

13-0113-0401, Rules Governing the Taking of Migratory Birds in the State of Idaho. Changes chapter name; sets biennial season limits and closes an area to hunting at Mann's Lake in Nez Perce County.

13-0114-0401, Rules Governing Falconry. Sets biennial season limits.

13-0116-0401, Rules Governing the Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals. Sets biennial season limits; defines bait; clarifies otter reporting requirement; increases the reimbursement for certain nontarget animals; identifies a closure area.

13-0119-0401, Rules Covering Operating, Discontinuing, and Suspending Vendors. Simplifies requirements and documentation for proving residency status for license sales.

**IDAPA 14 - BOARD OF REGISTRATION OF PROFESSIONAL GEOLOGISTS
PO Box 83720, Boise, ID 83720-0033**

14-0101-0401, Rules of Procedure of the Board of Registration of Professional Geologists. Updates office address.

**IDAPA 15 - OFFICE OF THE GOVERNOR
IDAHO COMMISSION ON AGING
3380 Americana Terrace, Ste. 120, Boise, ID 83706**

15-0101-0401, Rules Governing Senior Services Program. Updates rule to reflect current practices and procedures and modifies the cost sharing payment rules to accommodate the growing need of low-income individuals.

15-0102-0401, Rules Governing Area Agency Adult Protection Program. Changes “performance based agreements” to “contracts” and clarifies “substantiated” as it relates to ICOA investigations into allegations of the abuse, neglect, and exploitation of vulnerable adults.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

PO Box 83720, Boise, ID 83720-0036

16-0226-0401, Rules Governing Idaho Children's Special Health Program. Changes enrollment and eligibility criteria.

16.03.09 - Rules Governing the Medical Assistance Program.

16-0309-0404, Allows for annual reviews of certain patients rather than quarterly reviews of nursing facilities. ****16-0309-0405,** Changes reimbursement methodology and rates used by Medicaid for ground and air ambulance services.

16-0309-0406, Clarifies what services and costs are covered by Medicaid reimbursement and the rate of payment for Home Health Agencies.

16-0309-0407, Clarifies who is required to have a criminal history background check and when the individual is available to provide services.

16.03.10 - Rules Governing Medicaid Provider Reimbursement in Idaho.

16-0310-0401, Changes and updates definitions, and adds provider record keeping and audit requirements.

16-0310-0402, Clarifies the current prospective payment methodology used in reimbursement to nursing home providers.

16-0317-0401, Service Coordination. Adds criminal history check requirement; extends to 60 days time allowed to develop service plan Service Coordination.

IDAPA 17 - IDAHO INDUSTRIAL COMMISSION

PO Box 83720, Boise, ID 83720-0041

17-0602-0401, Boiler and Pressure Vessel Safety Rules. Designates appointment of a chief inspector who will sit on the National Board.

17-0701-0401, Safety Rules for Elevators, Escalators, and Moving Walks. Chapter repeal. Program has been moved to Division of Building Safety.

IDAPA 18 - DEPARTMENT OF INSURANCE

PO Box 83720, Boise, ID 83720-0043

18-0156-0401, Rebates and Illegal Inducements to Obtaining Title Insurance Business. Places additional limitations on title entities for donations and sponsorship of trade association events; updates self-promotional advertising standards and permitted business entertainment standards for title entities.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

1109 Main St., Suite 220, Boise, ID 83702

24-0101-0401, Rules Governing the Board of Architectural Examiners. Clarifies that the Intern Development Program is in addition to the required 8 years' experience; provides an effective date for continuing education.

24-0201-0401, Rules Governing the Board of Barber Examiners. Reduces fee for original and renewal licenses for barbers, barber stylists, and barber teachers to \$25.

24-0501-0401, Rules Governing the Board of Drinking Water and Wastewater Professionals. New chapter implements state law and outlines the qualifications, definitions and continuing education requirements.

24-0601-0401, Rules Governing the Board of Hearing Aid Dealers and Fitters. Increases annual renewal fees;

clarifies the examination and reexamination process.

24-0701-0401, Rules Governing the Board of Landscape Architects. Increases original license and annual renewal fees to fund Board's operation.

24-0901-0401, Rules Governing the Board of Examiners of Nursing Home Administrators. Clarifies application review process; provides qualifications for endorsement applicants; requires nursing home administrators-in-training work in a licensed nursing home and complete a pertinent course of study.

24-1201-0401, Rules Governing the Board of Psychologist Examiners. Increases renewal fee to cap of \$225; deletes definition and supervision requirements for psychology interns.

24-1401-0401, Rules Governing the Board of Social Work Examiners. Defines supervision requirements; sets guidelines for supervisor registration for licensure as clinical social worker; allows audio tapes and internet courses as continuing education; deletes references to pastoral counselors; clinical and independent practice is being extended until July 1, 2006; clarifies that 3000 hours of supervised experience in not less than 2 years is required; outlines limitations on supervisors.

24-1501-0401, Rules Governing the Idaho Board of Counselors and Marriage and Family Therapists. Clarifies required examination; deletes references to pastoral counselors; adds a special exemption for continuing education requirement for renewal of a license.

24-1601-0401, Rules Governing the State Board of Dentistry. Increases renewal fee.

24-1701-0401, Rules Governing the Idaho Board of Acupuncture. Clarifies source for distance learning continuing education; provides hardship exemption for continuing education; adds section that outlines discipline as provided by statute.

24-1801-0401, Rules Governing the Idaho Board of Real Estate Appraisers. Updates incorporation by reference; makes changes to definitions and continuing education requirements.

24-1901-0401, Rules Governing the Board of Examiners of Residential Care Facility Administrators. Includes good moral conduct and suitability as qualifications for licensure.

IDAPA 27 - IDAHO STATE BOARD OF PHARMACY PO Box 83720, Boise, ID 83720-0067

27.01.01 - Rules of the Idaho State Board of Pharmacy.

27-0101-0402, Allows for two telepharmacy pilot projects to be conducted in the state.

27-0101-0403, Makes Ephedrine products available through prescription only.

27-0101-0404, Adds new standards of conduct within the practice of pharmacy including reporting unprofessional conduct and cooperating in investigations; violation of these standards is unprofessional conduct.

27-0101-0405, Extends the expiration date of prescriptions from 1 year to 15 months.

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION PO Box 83720, Boise, ID 83720-0074

31-1101-0401, Safety and Accident Reporting Rules for Utilities. Updates CFR incorporation by reference.

31.21.01 - Utility Customer Relations Rules.

31-2101-0401, Allows a public utility to transfer a customer deposit to a new account or apply it to the account balance owing on an existing account; allows a public utility to forward abandoned deposits or advanced payment to a financial assistance program certified by the Commission.

****31-2101-0402,** Negotiated rulemaking.

31-4101-0401, Telephone Customer Relations Rules. Changes address deposits, medical certificates and adoption of the updated federal slamming regulations.

IDAPA 34 - OFFICE OF THE SECRETARY OF STATE**PO Box 83720, Boise, ID 83720-0080**

34-0301-0401, *Rules Implementing the Sunshine Law.* Requires that lobbyists and their employers certify annual reports on expenditures; references online availability of reporting forms.

IDAPA 35 - IDAHO STATE TAX COMMISSION**PO Box 36, Boise, ID 83722-0410**

35.01.01 - *Income Tax Administrative Rules.*

35-0101-0401, Numerous changes comply with federal and state law changes; adjusts tax rates; clarifies, adds, and removes certain deductions and exemptions.

35-0101-0402, Numerous changes made in response to Multistate Tax Commission (MTC) regulation changes.

35.01.02 - *Idaho Sales and Use Tax Administrative Rules.*

35-0102-0401, Removes obsolete provisions; brings rules into compliance with Idaho statutes; provides for variable tax filing cycles for retailers; updates Form 852 Idaho Sales Tax Return - County Assessors or Sheriffs; provides for refunds of sales tax paid in error.

35-0102-0402, Treats fiber optic cable as personal property not a real property improvement.

35.01.03 - *Property Tax Administrative Rules.*

35-0103-0401, Updates incorporation by reference documents; corrects statutory citations; implements and complies with statutory changes; clarifies certain exemptions.

35-0103-0402, Changes definition of "previously eligible" to recognize eligibility at any time since 1981 and deletes definition of "continued to be eligible".

35-0105-0401, *Motor Fuels Tax Administrative Rules.* Adds required sections; deletes obsolete language; makes idling an activity not eligible for a special fuels tax refund; adds recordkeeping requirements for certain registrant's of motor vehicles and removes others.

35-0201-0401, *Tax Commission Administration and Enforcement Rules.* Removes obsolete provisions; implements statutory changes for calculating interest rates and allowing for exchange of information.

IDAPA 36 - IDAHO BOARD OF TAX APPEALS**PO Box 83720, Boise, ID 83720-0088**

36-0101-0401, *Idaho Board of Tax Appeals Rules.* No longer allows third party representation before the Board through a Board approved power of attorney; simplifies and eliminates abusive requests to engage in discovery.

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**PO Box 7129, Boise ID 83707-1129**

39-0311-0401, *Rules Governing Overlegal Permittee Responsibility and Travel Restrictions.* Restricts over-width permitted vehicles from operating on certain sections of interstate highways during the hours of high-commuter traffic.

39-0341-0401, *Rules Governing Traffic Control Devices.* Adopts by incorporation by reference the most recent publication of the MUTCD with noted exceptions.

IDAPA 40 - IDAHO COMMISSION ON THE ARTS**2410 Old Penitentiary Rd., Boise, ID 83712**

40-0101-0401, *Rules of the Idaho Commission on the Arts.* Sets requirements for applicants under the Commission's grant and award program.

IDAPA 49 - BOARD OF CERTIFIED SHORTHAND REPORTERS**PO Box 83720, Boise, ID 83720-0017**

49-0101-0401, *Rules of Procedure of the Idaho Certified Shorthand Reporters Board.* Eliminates previous disciplinary hearing provisions and adds APA contested case provisions; makes housekeeping changes.

IDAPA 51 - IDAHO BEEF COUNCIL**2118 Airport Way, Boise, ID 83705-5156**

51-0101-0401, *Idaho Beef Council Rules.* Deletes outdated reference to the Beef Industry Council and replaces it with generic language permitting the funds to be sent to a “national beef promotion program”; makes housekeeping changes.

IDAPA 57 - SEXUAL OFFENDER CLASSIFICATION BOARD**1299 N. Orchard St., Suite 110, Boise, ID 83706**

****57-0101-0401, *Rules Governing the Sexual Offender Classification Board.*** New chapter outlines requirements for pre-sentence evaluations provided to the courts; establishes an application system to certify evaluators; provides quality assurance for evaluators and evaluations; sets Board procedures for designating high-risk sexual offenders as Violent Sexual Predators. Comment by: 11/6/04.

**The Deadline For Submitting Written Comments For These Rulemakings
Is October 27, 2004, Unless Otherwise Listed.**

****Public Hearings And Meetings Have Been Scheduled For These Dockets.**

Please refer to the Idaho Administrative Bulletin, **October 6, 2004, Volume 04-10** for notices and text of all rulemakings, public hearing schedules, proclamations, Governor’s executive orders, and agency contact names.

Idaho Administrative Bulletin

Citizens of your county can view all issues of the Idaho Administrative Bulletin at the county law libraries.

Copies of the Administrative Bulletin and other rules publications are available for purchase. For subscription information and ordering see our website or call (208) 332-1820 or write the Office of Administrative Rules, Department of Administration, 650 W. State St., Room 100, Boise, ID 83720-0306. Visa and MasterCard accepted for most purchases.

The Idaho Administrative Bulletin and Administrative Code are available on-line at: **<http://www2.state.id.us/adm/adminrules/>**